



**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 220712-0154]**

**RIN 0648-BL19**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagics Resources in the Gulf of Mexico and Atlantic Region; Amendment 32**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to implement management measures described in Amendment 32 to the Fishery Management Plan (FMP) for the Coastal Migratory Pelagic (CMP) Resources of the Gulf of Mexico and Atlantic Region (CMP FMP), as prepared and submitted by the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council (Councils). This proposed rule and Amendment 32 would revise the Gulf of Mexico (Gulf) migratory group of cobia (Gulf group cobia) catch limits, possession limit and minimum size limits, establish a Gulf group cobia commercial trip limit and recreational vessel limit, and revise the CMP FMP framework procedures. The proposed rule would also clarify the Gulf group cobia sale and purchase restrictions. The purpose of this proposed

rule and Amendment 32 is to end overfishing of Gulf group cobia, update catch limits to be consistent with the best scientific information available, and revise management measures to help constrain landings to the catch limits.

**DATES:** Written comments must be received on or before  
**[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE  
FEDERAL REGISTER].**

**ADDRESSES:** You may submit comments on the proposed rule, identified by "NOAA-NMFS-2022-0030," by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter "NOAA-NMFS-2022-0030", in the Search box. Click the "Comment" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Kelli O'Donnell, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](https://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential

business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 32, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/amendment-32-management-gulf-migratory-group-cobia>.

**FOR FURTHER INFORMATION CONTACT:** Kelli O'Donnell, telephone: 727-824-5305, or email: [Kelli.ODonnell@noaa.gov](mailto:Kelli.ODonnell@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Gulf group cobia is managed under the CMP FMP in Federal waters from the Georgia/Florida border in the Atlantic to the Texas/Mexico border in the Gulf. The CMP FMP was prepared by the Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

All weights in this proposed rule are in round and eviscerated weight combined, unless otherwise specified.

### **Background**

Under the CMP FMP, the Councils jointly manage fishing for Gulf group cobia in Federal waters from Texas to the Florida/Georgia boundary. The Gulf group cobia acceptable biological catch (ABC) is apportioned between the Gulf

zone, which spans from the Councils' jurisdictional boundary west of the Dry Tortugas, Florida, to the Texas/Mexico border, and the Florida east coast (FLEC) zone, which spans from the Florida/Georgia border to the Councils' jurisdictional boundary west of the Dry Tortugas, Florida. Under the current framework procedures in the CMP FMP, the Gulf of Mexico Fishery Management Council (Gulf Council) is responsible for specifying management measures for Gulf group cobia, except that the South Atlantic Fishery Management Council (South Atlantic Council) is responsible for specifying trip limits, closed seasons or areas, and gear restrictions in the FLEC zone.

The current overfishing limit (OFL) and acceptable biological catch are 2,660,000 lb (1,206,556 kg) and 2,600,000 lb (1,179,340 kg), respectively. The current stock annual catch limit (ACL) is equal to the ABC. These catch limits were established in 2015 in Amendment 20B to the CMP FMP (80 FR 4216; January 27, 2015), and are based on the recommendations of the Councils' Scientific and Statistical Committees (SSCs) from the Southeast Data Assessment and Review (SEDAR) 28 stock assessment. The recreational landings estimates used in SEDAR 28 were generated using the Marine Recreational Information Program's (MRIP) Coastal Household Telephone Survey (CHTS).

In Amendment 20B, the Councils apportioned the Gulf group cobia stock ABC between the Gulf zone (64 percent)

and FLEC zone (36 percent), based on average landings from 1998-2012 across both zones, with the ACL for each zone being set equal to the apportioned ABC. Recreational landings estimates during 1998-2012 were generated using MRIP-CHTS. In 2018, MRIP replaced the fishing effort estimates from the CHTS with those from the Fishing Effort Survey (FES). Total recreational fishing effort estimates generated from MRIP-FES are generally higher than MRIP-CHTS estimates, and those higher effort estimates necessarily increase the recreational landings estimates. This difference in the estimates is because MRIP-FES is designed to more accurately measure fishing activity. Had MRIP-FES data been available when the current Gulf grouper cobia OFL and ABC were established, the OFL would have been 4,870,000 lb (2,208,995 kg) and the ABC would have been 4,500,000 (2,041,166 kg).

In 2020, the SEDAR 28 Update indicated that Gulf group cobia was undergoing overfishing with the biomass at reduced levels, which puts the stock at risk of becoming overfished. The SEDAR 28 Update included updated recreational landings estimates based on MRIP FES. In July 2020, the Councils' SSCs reviewed the SEDAR 28 Update and recommended new OFLs and ABCs that would end overfishing of Gulf group cobia and allow harvest to increase over time. The SSCs' recommendation for OFL is 3,210,000 lb (1,456,032 kg) for 2022, and 3,310,000 lb (1,501,391 kg) for 2023 and

subsequent years. The SSCs' recommendation for ABC is 2,600,000 lb (1,179,340 kg) for 2022, and 2,760,000 lb (1,251,915 kg) for 2023 and subsequent years. These recommendations represent a reduction in the allowable harvest when compared to the current OFL and ABC, as noted above.

The Gulf Council manages Gulf group cobia in the Gulf zone without sector allocations. The South Atlantic Council manages Gulf group cobia in the FLEC zone with sector allocations, allocating 8 percent of the ACL to the commercial sector and 92 percent of the ACL to the recreational sector. This allocation was originally established in 2012 in Amendment 18 to the CMP FMP, when two migratory groups of cobia were managed under the CMP FMP: Gulf group cobia and Atlantic migratory group cobia (Atlantic group cobia) (76 FR 82058; December 29, 2011). The allocation was based on a formula that balanced historical catches (2000-2008) with more recent landings (2006-2008). The boundary between these two migratory groups was set at the Councils' jurisdictional boundary west of the Dry Tortugas. However, the SEDAR 28 (2013) assessment determined that the biological boundary between the Gulf and Atlantic migratory groups of cobia was the Florida/Georgia border. To account for this change, in Amendment 20B the Councils created the Gulf zone and the FLEC zone, allocating a portion of the Gulf group cobia ABC

to each zone. In that Amendment, the Councils also chose to keep the same sector allocations for the FLEC zone that were established for Atlantic group cobia in Amendment 18 to the CMP FMP. Subsequently, the Councils removed Atlantic group cobia from the CMP FMP in 2018 through Amendment 31, and it is now managed by the Atlantic States Marine Fisheries Commission (84 FR 4733; February 19, 2019).

In Amendment 18, the Councils established ACTs for both Gulf group cobia and the recreational harvest of Atlantic group cobia. The Councils kept the same formulas for establishing these ACTs in Amendment 20B when the Gulf group cobia ABC was split between the Gulf zone and the FLEC zone. The current stock ACT in the Gulf zone is 10 percent below the Gulf zone ACL. The ACT was selected to provide a buffer to the ACL, but result in a catch level that was no less than historic total catch from 2000-2009. The current recreational ACT in the FLEC zone is 17 percent below the FLEC zone ACL and was calculated using the following formula: the ACL multiplied by 1 minus the proportional standard error (PSE) of the recreational landings estimates, or 0.5, whichever was greater.

The Councils established the current commercial and recreational possession limit for Gulf group cobia of two fish per person per day through Amendment 5 to the CMP FMP (55 FR 29370; July 19, 1990). This possession limit was extended to the FLEC zone when the Gulf group cobia

boundary was changed. There currently is no commercial or recreational trip limit for Gulf group cobia in either zone.

The Councils first established a minimum size limit for cobia of 33 inches (83.8 cm), fork length, in the original CMP FMP (48 FR 5270; February 4, 1983) and that minimum size limit applied to both the Gulf zone and the FLEC zone when they were created in Amendment 20B. In 2020, the Gulf Council revised the Gulf group cobia minimum size limit in the Gulf zone to 36 inches (91.4 cm) fork length, through Framework Amendment 7 to the CMP FMP (85 FR 10328; February 24, 2020). The Gulf Council took this action based on concerns from constituents that an observed decrease in cobia landings may indicate an unknown issue with the stock. The Gulf Council decided to take a precautionary approach by increasing the commercial and recreational minimum size limits while the SEDAR 28 Update assessment (2020) was completed. The South Atlantic Council did not change the minimum size limit in the FLEC zone, deciding to review the SEDAR 28 Update assessment before making any further management changes.

#### **Management Measures Contained in this Proposed Rule**

For Gulf group cobia, this proposed rule would revise the stock and sector ACLs, the Gulf zone stock ACT (quota), the FLEC zone recreational ACT, and the possession limit and minimum size limits, and establish a commercial trip



limit and a recreational vessel limits. This proposed rule would also clarify the CMP sale and purchase provisions for federally permitted dealers.

#### *ACLs*

The current stock ACL for Gulf group cobia is equal to the ABC of 2,600,000 lb (1,179,340 kg) and is based on the results of SEDAR 28, which used data from MRIP-CHTS.

Amendment 32 would retain the stock ACL for Gulf group cobia of 2,600,000 lb (1,179,340 kg) for 2022, and increase the stock ACL to 2,760,000 lb (1,251,915 kg) for 2023 and subsequent years, which is also equal to the ABCs recommended by the Councils' SSCs. The SSCs' recommendations and the Councils' determinations are based on the results of the SEDAR 28 Update, which used data from MRIP-FES. Thus, the proposed ACLs using MRIP-FES data actually represent a decrease in the allowable harvest of Gulf group cobia, as discussed above. For example, had the current stock ACL been derived using MRIP-FES data, the current stock ACL would have been 4,500,000 lb (2,041,166 kg).

The current zone apportionment of the ABC (equal to the stock ACL) is 64 percent to the Gulf zone and 36 percent to the FLEC zone, which results in a Gulf zone ACL of 1,660,000 lb (752,963 kg) and a FLEC zone ACL of 930,000 lb (421,841 kg). Amendment 32 and the proposed rule would revise the zone apportionment to 63 percent to the Gulf

zone and 37 percent to the FLEC zone. This would result in a Gulf zone ACL of 1,638,000 lb (742,984 kg) for 2022, and 1,738,000 lb (788,343 kg) for 2023 and subsequent years. The proposed FLEC zone ACL would be 962,000 lb (436,356 kg) for 2022, and 1,021,200 lb (463,209 kg) for 2023 and subsequent years.

Amendment 32 would maintain the current commercial and recreational allocation in the FLEC zone as 8 percent and 92 percent, respectively. The current ACLs for Gulf group cobia in the FLEC zone are 70,000 lb (31,751 kg) for the commercial sector (expressed as a commercial quota), and 860,000 lb (390,089 kg) for the recreational sector. The proposed commercial ACLs (quotas) are 76,960 lb (34,908 kg) for 2022, and 81,696 lb (37,057 kg) for 2023 and subsequent years. The proposed recreational ACLs are 885,040 lb (401,447 kg) for 2022, and 939,504 lb (426,152 kg) for 2023 and subsequent years.

#### *ACTs*

Amendment 32 and this proposed rule would update the calculation for determining the ACTs using the Gulf Council's ACL/ACT Control Rule. Under this control rule, the calculated ACTs for the Gulf zone and for the recreational sector in the FLEC zone would be 10 percent less than the respective zone ACLs. To calculate the ACT, the control rule uses the PSEs for 4 years of landings data (2016-2019), the number of times the catch limit has been

exceeded, the precision of recreational landings based on the PSE, the precision of commercial landings, inseason accountability measures in place, and the stock status.

The current stock ACT (quota) for Gulf group cobia in the Gulf zone is 1,500,000 lb (680,389 kg). Consistent with the Gulf Council's ACL/ACT Control Rule, this proposed rule would revise the stock ACT in the Gulf zone to be 1,474,200 lb (668,686 kg) for 2022, and 1,564,920 lb (709,836 kg) for 2023 and subsequent years.

The current recreational ACT for Gulf group cobia in the FLEC zone is 710,000 lb (322,051 kg). Consistent with Gulf Council's ACL/ACT Control Rule, this proposed rule would revise the recreational ACT in the FLEC zone to be 796,536 lb (361,303 kg) for 2022, and 845,554 lb (383,537 kg) for 2023 and subsequent years.

There is no commercial ACT for Gulf group cobia in the FLEC zone and the Councils did not establish a commercial ACT in Amendment 32. The Councils determined that a commercial ACT was not necessary because the commercial sector had not exceeded its ACL in the past and the projections in Amendment 32 indicated that commercial harvest would not exceed the proposed ACLs.

*Possession Limit, Commercial Trip Limit, and Recreational Vessel Limit*

The current possession limit for Gulf group cobia of two fish per person per day applies to commercial and

recreational harvest in both zones. This possession limit is codified at 50 CFR 622.383(b), which addresses limited harvest species. In Amendment 32, the Councils decided to reduce the Gulf group cobia possession limit to one fish per person. The Councils also decided to establish a commercial trip limit of two fish and a recreational vessel limit of two fish per trip.

This proposed rule would implement these changes by establishing a recreational bag limit in 50 CFR 622.382(a) and a commercial trip limit in 50 CFR 622.385(c), and removing the regulations at 50 CFR 622.383. The recreational bag limit for Gulf group cobia would be one fish per person per day, not to exceed 2 fish per vessel per trip. The commercial trip limit for Gulf group cobia per day would be one fish per person and 2 fish per vessel, not to exceed 2 fish per vessel per trip. The commercial trip limit, and the recreational bag and vessel limits would apply to harvest from both the Gulf zone and FLEC zone.

Analysis in Amendment 32 indicates that the majority of the commercial and recreational trips already harvest one or less cobia per person and per trip. Therefore, reducing the possession limit from 2 fish to 1 fish per person and creating a commercial trip limit and recreational vessel limit would only reduce harvest in the Gulf zone by about 1.0 percent for the commercial sector

and 10 percent for the recreational sector. The harvest reduction in the FLEC zone would be greater, with an approximate 23 percent for the commercial sector and 29 percent for the recreational sector. However, the Councils decided that these changes were appropriate because they would result in some reduction in fishing mortality and would also aid with compliance and enforcement because the harvest limits in Federal waters would be consistent with those established by the state of Florida for harvest of cobia in Gulf state waters, which is one fish per person or two per vessel, whichever is less. The possession and trip limits in Florida state waters adjacent to the FLEC zone are currently one per person or six fish per vessel, whichever is less, but effective July, 1, 2022, these state regulations will change and will be consistent with the changes proposed in this rule. See <https://content.govdelivery.com/accounts/FLFFWCC/bulletins/316530e>.

The analysis in Amendment 32 indicates that commercial landings will not exceed the proposed commercial harvest limits in the FLEC zone, and that the combined commercial and recreational harvest would not exceed the proposed 2022 and 2023 total ACLs in the Gulf zone, regardless of the proposed commercial trip limits. This analysis also indicates that even with the proposed changes to the possession limit, recreational harvest in the FLEC zone is

projected to exceed the proposed FLEC zone 2022 and 2023 recreational ACLs, and when combined with expected commercial harvest, the total harvest in the FLEC zone is projected to exceed the total 2022 and 2023 FLEC zone ACLs. However, as discussed below, these proposed changes in combination with the proposed change to the minimum size limit is projected to reduce recreational landings enough to constrain harvest to the recreational ACL. As previously noted, NMFS expects the reduction in the possession limit and creation of a recreational vessel limit to reduce recreational harvest in the FLEC zone by approximately 29 percent.

#### *Minimum Size Limits*

This proposed rule would increase the commercial and recreational minimum size limits for Gulf group cobia in the FLEC zone from 33 inches (83.8 cm) to 36 inches (91.4 cm), fork length. The current Gulf zone commercial and recreational minimum size limit is 36 inches (91.4 cm), fork length, and the Councils determined that having a consistent minimum size limit in both the FLEC and Gulf zones would reduce confusion about the regulations in Federal waters and decrease the burden on law enforcement, while also providing benefits to the stock.

Increasing the minimum size limit to 36 inches (91.4 cm), fork length, in the FLEC zone would reduce the harvest rate across both sectors and reduce the total harvest. The

increase in the minimum size limit would also increase the likelihood that sexually mature cobia are able to spawn more than once before being harvested, resulting in additional recruitment to the spawning stock over time. As a result of this change to the minimum size limit, NMFS projects that harvest in the FLEC zone would be reduced by approximately 27 percent for the commercial sector, 23 percent for the recreational charter vessel/headboat component, and 34 percent for the recreational private angling component. An increase in the minimum size limit may increase regulatory discards in the FLEC zone in the near-term but the discard mortality rates were estimated in SEDAR 28 to be relatively low (5 percent) when using hook-and-line gear in the commercial sector and all gear types in the recreational sector. The analysis in Amendment 32 indicates that implementing both this increase in the minimum size limit and the changes to the possession limit would reduce landings in the FLEC zone enough to constrain landings to the recreational ACL.

*Permitted dealer sale and purchase*

This proposed rule would also clarify the sale and purchase regulations at 50 CFR 622.386(b) and (c). The Councils and NMFS do not require a specific Federal permit for the commercial harvest of Gulf group cobia. However, because this stock is included in the CMP FMP, the regulations at 50 CFR 622.386(b) and (c) restrict the sale

and purchase of Gulf group cobia by federally permitted vessels and seafood dealers. The regulation at 50 CFR 622.386(b) requires that Gulf group cobia harvested on any vessel that has a valid Federal vessel permit (*i.e.*, commercial or charter vessel/headboat permit for any Federal fishery) be sold to a seafood dealer who has a valid Federal Gulf and South Atlantic dealer permit. Under 50 CFR 622.386(c), that same Federal dealer may purchase Gulf group cobia harvested in or from Gulf or South Atlantic Federal waters only from a vessel that has been issued a Federal CMP permit (*i.e.*, commercial or charter vessel/headboat permit for king or Spanish mackerel). The dealer limitation in 50 CFR 622.386(c) is inconsistent with the requirement in 50 CFR 622.386(b) for Gulf group cobia on all federally permitted vessels to be sold to a federally permitted dealer, as well as with the Gulf and South Atlantic Council's Generic Amendment that created the Federal Gulf and South Atlantic dealer permit (79 FR 19490; April 9, 2014). Therefore, this proposed rule would correct the regulations in 50 CFR 622.386(c) to make the purchase restriction that is tied to having a Federal permit applicable only to king and Spanish mackerel species rather than to all CMP species generally. This correction would allow federally permitted dealers to accept Gulf group cobia harvested from the Exclusive Economic Zone (EEZ) from any vessel, regardless of the permit status of the vessel.



*Management Measures in Amendment 32 Not Codified through  
this Proposed Rule*

*OFL and ABC*

As previously explained, the current OFL and ABC for Gulf group cobia of 2,660,000 lb (1,206,556 kg) and 2,600,000 lb (1,179,340 kg), are based on the Councils' SSCs' recommendations from SEDAR 28, which used recreational landings estimates from MRIP-CHTS. Amendment 32 would adopt the new increasing OFLs and ABCs based on the SSCs' recommendations from the results of the SEDAR 28 Update, which used MRIP-FES recreational landings estimates. The new OFLs would be 3,210,000 lb (1,456,032 kg) for 2022, and 3,310,000 lb (1,501,391 kg) for 2023 and subsequent years. The new ABCs would be 2,600,000 lb (1,179,340 kg) for 2022, and 2,760,000 lb (1,251,915 kg) for 2023 and subsequent years.

*ABC Apportionment*

The current ABC apportionment for Gulf group cobia is 64 percent for the Gulf zone and 36 percent for the FLEC zone, respectively. Amendment 32 would revise the Gulf group cobia ABC apportionment between the Gulf and FLEC zones by using the average landings from 1998-2012 across both zones using MRIP-FES landings for this time series. This results in a new apportionment of the Gulf group cobia stock ABC of 63 percent for the Gulf zone and 37 percent for the FLEC zone. Using the same time series to calculate

the apportionment, but updating it by using MRIP-FES, addresses the higher recreational landings that have occurred in the FLEC zone compared to the Gulf zone.

#### *Sector Allocations*

Currently, Gulf group cobia in the Gulf zone is managed as a stock without separate ACLs for each sector, and the Councils did not reconsider this management approach in Amendment 32. The commercial and recreational allocation in the FLEC zone is 8 percent and 92 percent, respectively. Amendment 32 would maintain stock management in the Gulf zone and maintain the current commercial and recreational allocation in the FLEC zone. The current FLEC zone allocation would be applied to the proposed FLEC zone ACLs. The Councils wanted to recognize the harvest needs of the commercial sector in the FLEC zone by not decreasing the *status quo* catch limit of 70,000 lb (31,751 kg).

#### *FMP Framework Procedure*

Currently, the framework procedure limits the management measures that the South Atlantic Council may independently propose for Gulf group cobia in the FLEC zone to vessel trip limits, closed seasons or areas, or fishing gear restrictions.

Amendment 32 would revise the framework procedures to allow the South Atlantic Council to independently change vessel trip limits, closed seasons or areas, fishing gear restrictions, per person bag and possession limits, size

limits, in-season and post-season accountability measures, and specification of ACTs or sector ACTs for Gulf group cobia in the FLEC zone. The Councils decided that providing the South Atlantic Council the authority to make any of these changes through a framework process will allow the South Atlantic Council to respond quickly to new information. The Councils determined this change would result in beneficial biological, socio-economic, and administrative impacts.

Amendment 32 would also clarify language in the CMP FMP framework procedure by removing reference to Atlantic group cobia, which was removed from management by the Councils through Amendment 31 to the CMP FMP (84 FR 4733; February 19, 2019), and change the language referring to the ABC/ACL Control Rule because there is no ABC/ACL Control Rule. Instead, this language should refer to the ABC and ACL/ACT Control Rules.

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 32, the CMP FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 603). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from the Council [or NMFS] (see **ADDRESSES**).

This proposed rule, if implemented, would apply to all commercial vessels, charter vessels and headboats (for-hire vessels), and recreational anglers that fish for or harvest cobia in either the FLEC zone or Gulf zone. Because no Federal permit is required for the commercial harvest or sale of Gulf cobia, the distinction between commercial and recreational fishing activity for the purposes of this proposed rule is whether the fish are sold. Individuals that harvest Gulf cobia under the recreational bag limit in Federal waters and who do not subsequently sell these fish are considered to be recreational anglers. Recreational anglers are not considered small entities under the RFA, so they are outside the scope of this analysis (5 U.S.C. 603). Small entities include small businesses, small organizations, and small governmental jurisdictions (5 U.S.C. 601(6) and 601(3)-(5)). Recreational anglers are not

businesses, organizations, or governmental jurisdictions. A component of this proposed rule would also apply to Federally-permitted dealers that purchase Gulf cobia.

For-hire vessels sell fishing services to recreational anglers. The proposed changes to the CMP FMP would not directly alter the services sold by these for-hire vessels. Any change in anglers' demand for these fishing services (and associated economic effects) as a result of this proposed rule would be secondary to any direct effect on anglers and, therefore, would be an indirect effect of this proposed rule. Indirect effects fall outside the scope of the RFA; however, because for-hire captains and crew are allowed to harvest and sell Gulf cobia under the possession limit when the commercial season is open, for-hire businesses, or employees thereof, could be directly affected by this proposed rule as well.

In summary, businesses that engage in commercial fishing (*i.e.* those that sell their harvests of Gulf cobia, including some for-hire businesses), as well as seafood dealers that purchase Gulf cobia, are the only small entities that would be directly affected by the proposed rule, and therefore only the impacts on these small entities will be discussed.

Although no Federal permit is required for the commercial harvest and sale of Gulf cobia, vessels with other Federal commercial permits are required to report

their catches for all species harvested, including Gulf cobia. On average from 2015 through 2019, there were 261 federally-permitted commercial vessels with reported landings of cobia in the Gulf zone. Their average annual vessel-level gross revenue from all species for 2015 through 2019 was approximately \$195,000 (2019 dollars) and cobia harvested from the Gulf zone accounted for less than one percent of this revenue. During the same time period, 248 federally-permitted commercial vessels reported landings of cobia in the FLEC zone. Their average annual vessel-level revenue from all species for 2015 through 2019 was approximately \$46,000 (2019 dollars) and cobia harvested from the FLEC zone accounted for approximately one percent of this revenue. The maximum annual revenue from all species reported by a single one of the vessels that harvested Gulf cobia from 2015 through 2019 was approximately \$2.27 million (2019 dollars).

For anglers to fish for or possess CMP species in or from the Gulf EEZ on for-hire vessels, those vessels are required to have a Federal limited access Gulf Charter Vessel/Headboat for Coastal Migratory Pelagics permit (Gulf CMP for-hire permit). On September 3, 2021, there were 1,301 valid (non-expired) or renewable Gulf CMP for-hire permits and 4 valid or renewable Gulf CMP historical captain for-hire permits. For anglers to fish for or possess CMP species in or from the Mid-Atlantic or South

Atlantic EEZ on for-hire vessels, those vessels are required to have a Federal open access South Atlantic Charter Vessel/Headboat for Coastal Migratory Pelagics permit (SA CMP for-hire permit). On September 3, 2021, there were 1,825 valid SA CMP for-hire permits. Although the for-hire permit application collects information on the primary method of operation, the permit does not identify the permitted vessel as either a headboat or a charter vessel and vessels may operate in both capacities. However, only federally-permitted headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the Southeast Fisheries Science Center that the vessel primarily operates as a headboat. As of March 9, 2021, 69 Gulf headboats were registered in the SRHS. There were 39 Atlantic headboats registered in the SRHS that may operate in the FLEC zone, as well. As a result, of the 1,305 vessels with Gulf CMP for-hire permits (including historical captain permits), up to 69 may primarily operate as headboats and the remainder as charter vessels. Of the 1,825 vessels with SA CMP for-hire permits, up to 39 may primarily operate as headboats.

The average charter vessel operating in the Gulf is estimated to receive approximately \$90,000 (2019 dollars) in gross revenue and \$27,000 in net income (gross revenue minus variable and fixed costs) annually. The average Gulf

headboat is estimated to receive approximately \$272,000 (2019 dollars) in gross revenue and \$79,000 in net income annually. The average charter vessel operating in the South Atlantic is estimated to receive approximately \$125,000 (2019 dollars) in annual gross revenue. The average South Atlantic headboat is expected to receive approximately \$222,000 (2019 dollars) in annual gross revenue. Estimates of annual net income for South Atlantic charter vessels and headboats are not available.

As of July 12, 2021, there were 373 entities with a Federal Gulf and South Atlantic Dealer permit. The number of these seafood dealers that would be directly affected by this proposed rule is unknown; therefore, this number may be considered an upper bound estimate.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System (NAICS) code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. All of the commercial fishing businesses directly regulated by this proposed rule are believed to be small entities



based on the NMFS size standard.

The Small Business Administration (SBA) has established size standards for all major industry sectors in the U.S. including for-hire businesses (NAICS code 487210) and seafood dealers/wholesalers (NAICS code 424460). A business primarily involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$8 million for all its affiliated operations worldwide. All of the for-hire vessels directly regulated by this proposed rule are believed to be small entities based on the SBA size criteria. A business that primarily operates as a seafood dealer/wholesaler is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual employment not in excess of 100 employees for all its affiliated operations worldwide. Employment data for the dealers directly regulated by this proposed rule are not available; however, NMFS conservatively assumes a substantial number of these dealers are small entities based on the SBA size criteria.

No other small entities that would be directly affected by this proposed rule have been identified.

This proposed rule would modify the Gulf cobia stock

ACL based on the recommendations of the Councils' SSCs, as presented in July 2020. The stock ACL would be set equal to the stock ABC or 2,600,000 lb (1,179,340 kg) in 2022 and then increase to 2,760,000 lb (1,251,915 kg) in 2023 and thereafter. These proposed ACLs are not directly comparable to the status quo ACL of 2,600,000 lb (1,179,340 kg), because the status quo ACL is based on MRIP-CHTS data for the recreational sector; whereas, the proposed ACLs are based on newer MRIP-FES data. When converted to an MRIP-FES equivalent value, however, the status quo ACL is estimated to be approximately 4,500,000 lb (2,041,166). Although this proposed rule is expected to result in a 42 percent to 39 percent reduction in the stock ACL relative to the MRIP-FES equivalent status quo ACL, these differences do not represent differences between status quo harvest opportunities and expected future harvests. That is because the stock ACL is sub-divided into zone and sector specific ACLs, and those sub-ACLs dictate fishing opportunities. Also, based on historical landings information, the stock ACL has been underutilized in the past, and therefore, a reduction in the ACL may not impact harvests in the short term. Additionally, because the Gulf zone ACL is shared by the commercial and recreational sectors, and given the change from MRIP-CHTS to MRIP-FES, the portion of the Gulf zone ACL that would be harvested by each sector is unclear. Therefore, economic effects that would result from these

proposed ACL changes cannot be quantified.

This proposed rule would also modify the Gulf cobia stock ACL apportionment to be 63 percent for the Gulf zone and 37 percent for the FLEC zone, based on the MRIP-FES average landings for Gulf cobia for the years 1998 through 2012, and use this apportionment to update the zone ACLs based on the Gulf cobia stock ACL described above. This would translate into an ACL for the Gulf zone of 1,638,000 lb (742,984 kg) in 2022 and 1,738,800 lb (788,706 kg) in 2023 and subsequent years. For the FLEC zone, the ACL would be 962,000 lb (436,356 kg) in 2022 and 1,021,200 lb (463,209 kg) in 2023 and subsequent years. These proposed changes to the stock ACL apportionment would result in a benefit transfer from the Gulf zone to the FLEC zone, by allocating one percent more of the Gulf cobia stock ACL to the FLEC zone as compared to the status quo allocation. Because the new zone ACLs are not directly comparable to the status quo zone ACLs, due to the change from MRIP-CHTS to MRIP-FES, and because there is a single stock ACL for the Gulf zone, with no sector sub-ACLs, the economic effects of this reallocation to the commercial sector and the for-hire component of the recreational sector cannot be quantified.

Additionally, this proposed rule would retain the FLEC zone cobia ACL sector allocation of 8 percent to the commercial sector and 92 percent to the recreational sector

and update the sector ACLs accordingly. This would result in a FLEC zone commercial ACL of 76,960 lb (34,908 kg) in 2022 and 81,696 lb (37,057 kg) in 2023 and subsequent years. Relative to the status quo FLEC zone commercial ACL of 70,000 lb (31,751 kg), this would be an increase of 6,960 lb (3,157 kg) in 2022 and 11,696 lb (5,305 kg) in 2023 and subsequent years. The commercial sector (including for-hire vessels that sell their catch) is not expected to harvest the proposed ACL in full in the short-term, based on the annual average commercial cobia landings for the FLEC zone from 2015 through 2019. However, harvest of the full FLEC zone ACL in the future would result in an increase in estimated ex-vessel value of \$25,600 to \$43,000 (2019 dollars) relative to the status quo. Divided by the number of commercial vessels from 2015 through 2019 with reported FLEC zone cobia landings, this would translate to an increase in ex-vessel revenue of \$103 to \$173 dollars per vessel (less than one percent of average annual per vessel revenue).

This proposed rule would use the Gulf Council's ACL/ACT Control Rule to calculate ACTs for the Gulf zone and the recreational sector in the FLEC zone, setting each ACT at 10 percent below their respective zone ACLs. The Gulf zone stock ACT, which is shared by the commercial and recreational sectors, would be 1,474,200 lb (668,686 kg) in 2022 and 1,564,920 lb (709,836 kg) in 2023 and subsequent

years. In the Gulf zone, the switch from a constant ACT to an ACT calculated using the Gulf's control rule would result in the same buffer between the ACL and the ACT of 10 percent. Therefore, this proposed change to the method used for setting the ACT would not affect Gulf commercial cobia fishing practices or harvests in the Gulf zone and would not result in economic effects. The FLEC zone currently has no commercial sector ACT and none is proposed.

This proposed rule would also reduce the daily possession limit for cobia in the Gulf zone, for both recreational and commercial sectors, to one fish per person. This commercial limit would be codified as a commercial trip limit and the recreational limit as a recreational bag limit. NMFS expects this to reduce commercial Gulf zone cobia landings by 51 lb (23 kg) in total each year. The associated loss in aggregate ex-vessel revenue expected to result from this reduction is estimated at \$188 (2019 dollars). The proposed rule would also create a recreational vessel limit of two fish per trip and a commercial trip limit of two fish per trip, noting that fishermen may not exceed the per person daily possession limit. NMFS expects this to reduce commercial landings by 1,295 lb (587 kg). The associated loss in ex-vessel revenue is estimated at \$4,793 (2019 dollars) or approximately \$18 per vessel per year, on average. It is not possible to quantify the direct economic effects of these changes on

for-hire fishing vessels because data that describe commercial cobia landings on for-hire vessels are not available; however, the proposed commercial daily possession limit and commercial trip limit may reduce their opportunity to sell cobia.

Moreover, this proposed rule would reduce the daily possession limit for cobia in the FLEC zone, for both commercial and recreational sectors, to one fish per person. NMFS expects this to reduce total commercial FLEC zone cobia landings by 6,127 lb (2,779 kg). The associated loss in ex-vessel revenue is estimated at \$25,857 (2019 dollars) or approximately \$104 per vessel per year, on average. The proposed rule would also create a recreational vessel limit of two fish per trip and a commercial vessel trip limit of two fish per trip, noting that fishermen may not exceed the per person daily possession limit. NMFS expects this to reduce total commercial landings by 3,939 lb (1,787 kg). The associated loss in ex-vessel revenue is estimated at \$16,622 (2019 dollars) or approximately \$67 per vessel per year, on average. It is not possible to quantify the direct economic effects of these changes on for-hire fishing vessels due to data limitations described earlier; however, the proposed commercial daily possession limit and commercial trip limit may reduce their opportunity to sell cobia.

This proposed rule would retain the current minimum

size limit of 36 inches, fork length, in the Gulf zone and increase the minimum size limit from 33 inches FL to 36 inches FL in the FLEC zone. NMFS expects this to reduce commercial landings in the FLEC zone by 11,904 lb (5,400 kg). The associated loss in ex-vessel revenue is estimated to be \$50,237 (2019 dollars) or approximately \$203 per vessel per year, on average (less than one percent of average annual per vessel revenue). It is not possible to quantify the direct economic effects of the change in the minimum size limit on for-hire fishing vessels due to data limitations described earlier; however, it may reduce their opportunity to sell cobia.

Finally, this proposed rule would modify the framework procedure to update the responsibilities of each Council for setting regulations for Gulf cobia. Specifically, it would expand the South Atlantic Council's responsibilities for Gulf cobia in the FLEC zone to include: per person bag and possession limits, size limits, in-season and post-season accountability measures, and specification of ACTs or sector ACTs. The South Atlantic Council would independently approve framework actions pertaining to these specific management measures for the FLEC zone for Gulf cobia. Two additional corrections are being included to the framework procedure via this proposed rule. Atlantic group cobia was removed from the CMP FMP through the final rule implementing Amendment 31. However, the CMP framework

procedure was not updated at that time to remove reference to Atlantic group cobia. In addition, the CMP framework language referencing the ABC/ACL Control Rule is incorrect because it lacks an ABC/ACL control rule. Instead, the CMP framework language should refer to the ABC and ACL/ACT Control Rules. The Councils are making these corrections through this proposed rule. The proposed changes to the CMP framework are administrative in nature and would not have direct economic effects on any small entities.

The following discussion describes the alternatives that were not selected as preferred by the Councils.

Three alternatives were considered for the action to modify the Gulf cobia OFL, ABC, and ACL. The first alternative, the no action alternative, would maintain the current reference points (OFL and ABC) and the stock ACL for Gulf group cobia. The no-action alternative would not be expected to change fishing practices or commercial harvests of Gulf cobia, nor result in economic effects. This alternative was not selected by the Councils because it would be inconsistent with the SSCs' latest catch limit recommendations and the transition to MRIP-FES, and therefore, would not be based on the best scientific information available. The second alternative is the preferred alternative. The third alternative would modify the Gulf cobia stock OFL, ABC, and ACL as a constant catch value for 2021 and subsequent fishing years or until



changed by a future management action. The stock ACL would be set equal to the stock ABC or 2,340,000 lb (1,061,406 kg) for 2021 and thereafter. This would be 260,000 lb (117,934 kg) less than the preferred alternative in 2022 and 420,000 lb (190,509 kg) less than the preferred alternative for 2023 and subsequent years. Therefore, this alternative would be expected to provide fewer commercial fishing opportunities and lower economic benefits in the long term as compared to the preferred alternative. This alternative was not selected by the Councils because they determined that it was unnecessary to prevent overfishing and would unnecessarily limit future harvest levels and associated economic benefits for the commercial and recreational sectors.

Four alternatives were considered for the action to modify the Gulf cobia stock apportionment between the Gulf zone and the FLEC zone. The first alternative, the no action alternative, would retain the current Gulf cobia stock ACL apportionment of 64 percent to the Gulf zone and 36 percent to the FLEC zone based on MRIP-CHTS average landings for Gulf cobia for the years 1998-2012. The first alternative was not selected by the Councils. It would not align with the SSCs' OFL and ABC recommendations based on the SEDAR 28 Update assessment to monitor recreational catch and effort in MRIP-FES data currency (SEDAR 28 Update 2020), nor would the calculation use FLEC zone cobia-

specific landings. The second alternative would retain the Gulf cobia stock ACL apportionment between the zones at 64 percent to the Gulf zone and 36 percent to the FLEC zone, and use this apportionment to update both zone ACLs in MRIP-FES units. This alternative was not selected by the Councils because it fails to account for the effects of the change in recreational data reporting on historical landings during the time series used to set the current allocation (1998-2012). The third alternative is the preferred alternative. The fourth alternative would modify the Gulf cobia stock ACL apportionment to be 59 percent to the Gulf zone and 41 percent to the FLEC zone, based on the MRIP-FES average landings for Gulf cobia for the years 2003-2019, and use this apportionment to update the zone ACLs. This would result in a 4 percent lesser allocation percentage to the Gulf zone relative to the preferred alternative. The Councils did not select this alternative because the landings during the latter years in the time series may be biased by recent changes in the management of Gulf cobia.

Four alternatives were considered for the action to modify the FLEC zone cobia allocation between the commercial and recreational sectors. The first alternative, the no action alternative, would retain the FLEC zone cobia ACL allocation of 8 percent to the commercial sector and 92 percent to the recreational sector based on the South

Atlantic Council's allocation formula for Atlantic group cobia based on MRIP-CHTS landings, which balanced historical catches (2000-2008) with more recent landings (2006-2008). The first alternative was not selected by the Councils. It would not align with the SSCs' OFL and ABC recommendations based on the SEDAR 28 Update assessment to monitor recreational catch and effort in MRIP-FES data currency (SEDAR 28 Update 2020). The second alternative would modify the FLEC zone cobia ACL allocation to be 5 percent to the commercial sector and 95 percent to the recreational sector based on the South Atlantic Council's allocation formula for Atlantic group cobia applied to historic MRIP-FES data for FLEC zone cobia specific landings. This formula balanced historical catches landings (2000-2008) with more recent landings (2006-2008). This alternative would result in a FLEC zone commercial ACL of 48,100 lb (21,818 kg) in 2022 and 51,060 lb (23,160 kg) in 2023 and subsequent years based on the preferred alternative in the first action for an increasing catch yield stream. Relative to the preferred alternative this would be a decrease in the FLEC zone commercial ACL of 28,860 lb (13,091 kg) in 2022 and 30,636 lb (13,896 kg) in 2023 and subsequent years. If the commercial ACL constrains harvest in the future, this would represent a potential loss in ex-vessel revenue of \$121,789 to \$129,284 (2019 dollars); or, approximately \$491 to \$521 per vessel per

year, on average. The Councils did not select this alternative because they did not want to decrease the commercial sector ACL. The third alternative is the preferred alternative. The fourth alternative would modify the FLEC zone cobia ACL allocations to be calculated based on maintaining the current commercial ACL (*i.e.*, 70,000 lb (31,751 kg)) beginning in the 2021 fishing year and allocating the remaining revised total ACL to the recreational sector. The allocation percentages for 2021 would then be applied to the FLEC zone cobia ACL in years following 2021. This alternative would result in a FLEC zone commercial ACL of 77,778 lb (35,280 kg) in 2022 and 82,564 lb (37,450 kg) in 2023 and subsequent years. Relative to the preferred alternative this would be an increase in the FLEC zone commercial ACL of 818 lb (371 kg) in 2022 and 868 lb (394 kg) in 2023 and subsequent years. If the commercial ACL constrains harvest in the future, this would represent a potential increase in aggregate ex-vessel revenue of \$3,452 to \$3,663 (2019 dollars); or, approximately \$15 per vessel per year, on average. This alternative was not selected by the Councils because they believed it was a more complicated approach to achieving the same goal as the preferred alternative (no reduction in the commercial ACL), the benefits to the commercial sector would be minimal, and it would potentially create confusion for fishery stakeholders when revisiting sector allocations

in the future.

Three alternatives were considered for the action to update and/or establish ACTs for the Gulf group cobia zones. The first alternative, the no action alternative, would maintain the current formula for setting the Gulf cobia ACTs in the Gulf zone and FLEC zone. Under this alternative the Gulf zone ACT would be set at 90 percent of the Gulf zone ACL and the FLEC zone ACT would be set at the FLEC zone ACL multiplied by  $[(1 - \text{Proportional Standard Error [PSE] of the FLEC zone recreational landings}) \text{ or } 0.5, \text{ whichever is greater}]$ . This alternative would result in the same ACT buffer for the Gulf zone of 10 percent relative to the preferred alternative. However, the FLEC zone recreational sector would retain a 17 percent ACT buffer. This alternative was not selected by the Councils because they wanted a consistent method for setting ACTs in each zone. The second alternative is the preferred alternative. The third alternative would establish an ACT for the commercial sector in the FLEC zone using the Gulf Council's ACL/ACT Control Rule. Relative to the preferred alternative, this alternative has the potential to reduce commercial fishing opportunities for FLEC zone cobia, as this sector has not historically had an ACT. Therefore, it would be expected to result in greater associated economic losses to commercial fishing businesses over the long term. This alternative was not selected by the Councils because

the commercial quota monitoring system is effective and there is low risk of overages for the FLEC zone commercial sector.

Four alternatives were considered for the action to modify the possession, vessel, and trip limits for cobia in the Gulf zone. The first alternative, the no action alternative, would retain the current commercial and recreational daily possession limit of two fish per person and would not implement a vessel or trip limit. Therefore, this alternative would not be expected to result in economic effects to small entities. This alternative was not selected by the Councils because it would forgo biological benefits to the stock afforded by reduced fishing pressure. The second alternative is the preferred alternative and contains two preferred options that would apply to both the recreational sector and the commercial sector, respectively. The third alternative, which was also selected as preferred, would create a recreational vessel limit; however, fishermen would not be allowed to exceed the per person daily possession limit. The third alternative contained three options. The first option was selected as preferred, which would set the recreational vessel limit at two fish per vessel per trip. The second and third options would set the vessel limit per trip at four fish and six fish, respectively. Changes to the recreational vessel limit would not have a direct economic

effect on any small entities. The fourth and final alternative for this action, also selected as preferred, would set a commercial trip limit; however, fishermen would not be allowed to exceed the per person daily possession limit. The fourth alternative also contained three options. The first option was selected as preferred, which would set the commercial trip limit at two fish per trip. The second and third options would set the trip limit at four fish and six fish, respectively. Relative to the preferred option, these would be expected to result in commercial cobia landings that are 926 to 1,296 lb (420 to 588 kg) greater. These additional landings would be worth an estimated \$3,426 to \$4,795 (2019 dollars) or less than \$19 in ex-vessel revenue per vessel per year, on average. The Councils did not select the second and third options because they would be inconsistent with harvest limits in Florida state waters in the Gulf and, therefore, would not aid with compliance and enforcement.

Four alternatives were considered for the action to modify the possession, vessel, and trip limits for cobia in the FLEC zone. The first alternative, the no action alternative, would retain the current recreational and commercial daily possession limit of two fish per person in the FLEC zone, and would not implement a vessel or trip limit. Therefore, this alternative would not be expected to result in economic effects to small entities. This

alternative was not selected by the Councils because it would forgo biological benefits to the stock afforded by reduced fishing pressure as well as a potentially longer recreational season. The second alternative is the preferred alternative and contains two preferred options that would apply to both the recreational sector and the commercial sector, respectively. The third alternative, which was also selected as preferred, would create a recreational vessel limit; however, fishermen would not be allowed to exceed the per person daily possession limit. The third alternative contained three options. The first option was selected as preferred, which would set the recreational vessel limit at two fish per vessel per trip. The second and third options would set the vessel limit per trip at four fish and six fish, respectively. Changes to the recreational vessel limit would not have a direct economic effect on any small entities. The fourth and final alternative for this action, also selected as preferred, would set a commercial vessel trip limit; however, fishermen would not be allowed to exceed the per person daily possession limit. The fourth alternative also contained three options. The first option was selected as preferred, which would set the commercial vessel trip limit at two fish per trip. The second and third options would set the commercial vessel trip limit at four fish and six fish, respectively. Relative to the preferred option, these



would be expected to result in commercial cobia landings that are 2,626 lb (1,191 kg) greater. These additional landings would be worth an estimated \$11,082 (2019 dollars) or approximately \$45 in ex-vessel revenue per vessel per year, on average. The Councils did not select the second and third options because they wanted to be consistent with the commercial trip limit proposed for the Gulf zone.

Four alternatives were considered for the action to modify the Gulf cobia minimum size limit. The first alternative, the no action alternative, would retain the current commercial and recreational minimum size limit of 36 inches (94.1 cm), fork length, in the Gulf zone and 33 inches (83.8 cm), fork length, in the FLEC zone. This would not be expected to result in economic effects on any small entities. The first alternative was not selected by the Councils, because they believed an increased minimum size limit in the FLEC zone would benefit the stock by allowing for a greater proportion of the stock to become sexually mature prior to being harvested. They also wanted consistent cobia size limits in Federal waters. The second alternative is the preferred alternative. The third alternative would increase the commercial and recreational minimum size limit to 39 inches (99.1 cm), fork length. The third alternative contained two options that would apply the 39 inch (99.1 cm) minimum size limit to the Gulf zone and the FLEC zone, respectively. Increasing the minimum

size limit to 39 inches (99.1 cm), fork length, from 36 inches (94.1 cm), fork length, in the Gulf zone would be expected to result in a loss of 9,618 lb (4,363 kg) and \$35,586 (2019 dollars) in ex-vessel revenue (\$136 per vessel per year, on average). In the FLEC zone, a minimum size limit of 39 inches (99.1 cm), fork length, would lead to a loss in landings that is 9,498 lb (4,308 kg) greater than what is expected under the preferred alternative. This would translate into an additional \$40,078 (2019 dollars) reduction in ex-vessel revenue or \$162 per vessel per year, on average, relative to the preferred alternative. The fourth and final alternative for this action would increase the commercial and recreational minimum size limit to 42 inches (106.7 cm), fork length. The fourth alternative contained two options that would apply the 42 inch (106.7 cm) minimum size limit to the Gulf zone and the FLEC zone, respectively. Increasing the minimum size limit to 42 inches (106.7 cm), fork length, would be expected to result in a loss of 19,287 lb (8,748 kg) and \$71,361 (2019 dollars) in ex-vessel revenue (\$273 per vessel per year, on average) in the Gulf zone. In the FLEC zone, a minimum size limit of 42 inches (106.7 cm), fork length, would lead to a loss in landings that is 14,487 lb (6,571 kg) greater than what is expected under the preferred alternative. This would translate into an additional \$61,133 reduction in ex-vessel revenue or \$247 per vessel per year, on average,

relative to the preferred alternative. The Councils did not select the third or fourth alternative and two options for each of those two alternatives because they would indirectly drive fishing efforts to target more fecund female cobia, which may have a negative effect on the spawning stock biomass and could result in shorter fishing seasons due to heavier fish being landed.

Finally, two alternatives were considered for the action to modify the framework procedure. The first alternative, the no action alternative, would not make any changes to the framework procedure and thus would not have any economic effects on any small entities. It was not selected by the Councils because it would forgo the biological, social, and economic benefits of allowing the South Atlantic Council to react quicker and be more responsive to updated scientific information or changes in fishing harvest for FLEC zone cobia. The second alternative is the preferred alternative.

An additional item is contained in the proposed rule that is not included in Amendment 32, namely a revision to the language in 50 CFR 622.386(c). This revision would allow federally-permitted dealers to purchase cobia harvested in or from the Gulf or South Atlantic EEZ from any vessel, regardless of whether the vessel has been issued a Federal commercial vessel permit or a Federal charter vessel/headboat permit. It is unclear how many

vessels and dealers would be impacted by this change; however, NMFS expects the direct economic effects to be positive because this change would expand the opportunity for federally and non-federally permitted vessels, and federally-permitted dealers to sell or buy Gulf cobia, respectively.

No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

#### **List of Subjects in 50 CFR Part 622**

Annual catch limits, Bag and possession limits, Cobia, Fisheries, Fishing, Gulf of Mexico, Trip limits.

Dated: July 13, 2022.

**Kimberly Damon-Randall,**

*Acting Deputy Assistant Administrator for Regulatory Programs,*

*National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

#### **PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC**

1. The authority citation for part 622 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 622.380, revise paragraph (a)(1)(ii) to read as follows:

**§ 622.380 Size limits.**

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(ii) *Florida east coast zone*. 36 inches (91.4 cm),  
fork length.

\* \* \* \* \*

3. In § 622.382, add paragraph (b) to read as follows:

**§ 622.382 Bag and possession limits.**

\* \* \* \* \*

(b) *Gulf migratory group cobia* -(1) *Bag limits*. The following applies to persons who fish for cobia in the Gulf zone or Florida east coast zone, and do not sell their catch.

(i) 1 fish per person per day, not to exceed 2 fish per vessel per trip.

(ii) [Reserved]

(2) [Reserved]

**§ 622.383 [Removed and Reserved]**

4. Remove and reserve § 622.383.

5. In § 622.384, revise paragraphs (d)(1) and (e)(2) to read as follows:

**§ 622.384 Quotas.**

\* \* \* \* \*

(d) \* \* \*

(1) *Gulf migratory group* - (i) *Gulf zone*. For the 2022 fishing year, the stock quota is 1,474,200 lb (668,686 kg). For the 2023 fishing year and subsequent fishing years, the stock quota is 1,564,920 lb (709,836 kg).

(ii) *Florida east coast zone*. The following quotas apply to persons who fish for cobia and sell their catch. For the 2022 fishing year the quota is 76,960 lb (34,908 kg). For the 2023 fishing year and subsequent fishing years the quota is 81,696 lb (37,057 kg).

\* \* \* \* \*

(e) \* \* \*

(2) The sale or purchase of king mackerel, Spanish mackerel, or cobia of the closed species, migratory group, zone, or gear type is prohibited, including any king or Spanish mackerel taken under the bag and possession limits specified in § 622.382(a), or cobia taken under the bag and possession limits specified in § 622.382(b). The prohibition on the sale or purchase during a closure for coastal migratory pelagic fish does not apply to coastal migratory pelagic fish that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor.

6. In § 622.385, add paragraph (c) to read as follows:

**§ 622.385 Commercial trip limits.**

\* \* \* \* \*

(c) *Cobia*. (1) [Reserved]

(2) *Gulf migratory group*. The following trip limit applies to persons who fish for cobia and sell their catch.

(i) *Gulf zone and Florida east coast zone*. Cobia in or from the EEZ may be possessed or landed in amounts not exceeding 1 fish per person and 2 fish per vessel.

(ii) [Reserved]

7. In § 622.386, revise paragraph (c) to read as follows:

**§ 622.386 Restrictions on sale/purchase.**

\* \* \* \* \*

(c) *Dealer receipt of fish*. King or Spanish mackerel harvested in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ may be first received by a dealer who has a valid Federal Gulf and South Atlantic dealer permit, as required under § 622.370(c)(1), only from a vessel that has a valid Federal commercial vessel permit for king or Spanish mackerel, as required under § 622.370(a), or a valid Federal charter vessel/headboat permit for coastal migratory pelagic fish, as required under § 622.370(b).

\* \* \* \* \*

8. In § 622.388, revise paragraph (e)(1)(ii), (e)(2)(ii)(A), and (e)(2)(iii) to read as follows:

**§ 622.388 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).**

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(ii) The stock ACLs for Gulf migratory group cobia in the Gulf zone are 1,638,000 lb (742,984 kg) for 2022, and 1,738,800 lb (788,706 kg) for 2023 and subsequent fishing years.

(2) \* \* \*

(ii) \* \* \*

(A) If the sum of cobia landings that are sold and not sold, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (e)(2)(iii) of this section, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the length of the following fishing season by the amount necessary to ensure landings may achieve the applicable ACT, but do not exceed the applicable ACL in the following fishing year. Further, during that following year, if necessary, the AA may file additional notification with the Office of the Federal Register to readjust the reduced fishing season to ensure harvest achieves the ACT but does not exceed the ACL. The applicable ACTs for the Florida east coast zone of cobia are 796,536 lb (361,303 kg) for 2022, and 845,554 lb (383,537 kg) for 2023 and subsequent fishing years. The applicable ACLs for the Florida east coast zone of cobia



are 885,040 lb (401,447 kg) for 2022, and 939,504 lb (426,152 kg) for 2023 and subsequent fishing years.

\* \* \* \* \*

(iii) *Stock ACLs*. The stock ACLs for Florida east coast zone cobia are 962,000 lb (436,356 kg) for 2022, and 1,021,200 lb (463,209 kg) for 2023 and subsequent fishing years.